

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

2016 MAY 13 PM 12:14

UNITED STATES OF AMERICA

V.

ENRIQUE DIAZ

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CLERK OF THE UNITED COURT
WESTERN DISTRICT OF TEXAS
BY *SW*

CAUSE NO. 1:14-CR-88(01)-LY

ORDER

Before the court is the above styled and numbered cause. On March 25, 2014, the United States Probation Office filed a Petition for Warrant or Summons For Offender Under Supervision for Defendant Enrique Diaz, which alleged that Diaz violated a condition of his supervised release and recommended that his term of supervised release should be revoked (Clerk's Doc. No. 2). A summons issued, Diaz was arrested, and an initial appearance regarding revocation of supervised release was held May 5, 2016. Diaz was detained pending further order of the court (Clerk's Doc. No. 14).

Diaz appeared before a United States Magistrate Judge on May 11, 2016, waived his right to a preliminary revocation hearing and to be present before the United States District Judge at the time of modification of sentence, and consented to allocution before the magistrate judge for a final revocation hearing (Clerk's Doc. Nos. 19 & 20). Following the hearing the magistrate judge signed a report and recommendation (Clerk's Doc. No. 24). The report and recommendation recommends that this court revoke Diaz's supervised release and sentence him to imprisonment for a period of six months, with no supervised release to follow.

A party may serve and file specific, written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation, and thereby secure a *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to

the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjection-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*). The parties in this cause were properly notified of the consequences of a failure to file objections.

On May 11, 2016, all parties signed a Waiver of Fourteen Day Rule for Filing Objections to Report and Recommendation of United States Magistrate Judge (Clerk's Doc. No. 23). The court, having reviewed the entire record and finding no plain error, accepts the Report and Recommendation filed in this cause.

IT IS THEREFORE ORDERED that the United States Magistrate Judge's Report and Recommendation (Clerk's Doc. No. 24) filed in this cause is hereby **ACCEPTED AND ADOPTED** by the court.

IT IS FURTHER ORDERED that Defendant's supervised release is hereby **REVOKE**D.

IT IS FURTHER ORDERED that Defendant is sentenced to imprisonment in a federal correctional institution for a period of 120 days, with no term of supervised release to follow.

SIGNED this 13th day of May, 2016.


LEE YEAKEL
UNITED STATES DISTRICT JUDGE